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Crime prevention and criminal justice

**Report of the Ad Hoc Committee on the Elaboration of a
Convention against Transnational Organized Crime on
the work of its first to eleventh sessions**

Addendum

**Report of the Ad Hoc Committee on the Elaboration of a
Convention against Transnational Organized Crime on the
work of its twelfth session**

**Interpretative notes for the official records (*travaux
préparatoires*) of the negotiation of the Protocol against the
Illicit Manufacturing of and Trafficking in Firearms, Their
Parts and Components and Ammunition, supplementing the
United Nations Convention against Transnational
Organized Crime**

I. Introduction

1. The present document contains interpretative notes that were discussed by the Ad Hoc Committee on the Elaboration of a Convention against Transnational Organized Crime throughout the process of negotiation of the draft Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime. These notes will be included in the official records of the negotiation process, which the Secretariat will prepare in accordance with standard practice. The Ad Hoc Committee was informed by the Secretariat in document A/AC.254/33 of the nature of the official records of the negotiation and of the practice regarding their drafting and compilation. The present document is submitted to the General Assembly for information purposes only. The Ad Hoc

Committee took no formal action on these notes and none is expected of the Assembly at its fifty-fifth session.

II. Interpretative notes

Interpretative notes for the official records (*travaux préparatoires*) of the negotiation of the Protocol against the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime

Article 1: Relation with the United Nations Convention against Transnational Organized Crime

Paragraph 2

2. The *travaux préparatoires* should indicate that this paragraph was adopted on the understanding that the words "mutatis mutandis" meant "with such modifications as circumstances require" or "with the necessary modifications". Provisions of the Convention that are applied to the Protocol under this article would consequently be modified or interpreted so as to have the same essential meaning or effect in the Protocol as in the Convention.

Article 3: Use of terms

Subparagraph (a)

3. The *travaux préparatoires* should indicate that the word "portable" in subparagraph (a) was included on the understanding that the intended meaning was to limit the definition of "firearm" to firearms that could be moved or carried by one person without mechanical or other assistance.

Article 4: Scope of application

Paragraph 2

4. The *travaux préparatoires* should indicate that the words "state-to-state transactions" refer only to transactions by States in a sovereign capacity.

Article 5: Criminalization

Paragraph 2

5. The *travaux préparatoires* should indicate that the "other measures" mentioned here are additional to legislative measures and presuppose the existence of a law.

6. The *travaux préparatoires* should indicate that references to attempting to commit the offences established under domestic law in accordance with this paragraph are understood in some countries to include both acts perpetrated in preparation for a criminal offence and those carried out in an unsuccessful attempt to commit the offence, where those acts are also culpable or punishable under domestic law.

Article 13: Cooperation**Paragraph 2**

7. The *travaux préparatoires* should indicate that the reference to "matters relating to this Protocol" in this paragraph was included in order to take into account the fact that, for matters relating to the illicit manufacturing of and trafficking in firearms, their parts and components and ammunition, some States Parties might find it necessary to establish different authorities than those responsible for dealing with mutual legal assistance matters under article 18 of the Convention.

Article 17: Signature, ratification, acceptance, approval and accession

8. The *travaux préparatoires* should indicate that, while the Protocol has no specific provisions on reservations, it is understood that the Vienna Convention on the Law of Treaties of 1969 applies regarding reservations.
